UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GEORGE GUINDON, ET AL. Plaintiffs, v. AMERICAN FOAM CORP., ET AL. Defendants	NO.: 03-335-L

DEFENDANT'S, LUNA TECH, INC., ANSWER TO PLAINTIFFS' COMPLAINT AND DEMAND FOR JURY TRIAL

JURISDICTION AND VENUE

1. The defendant, Luna Tech, Inc. (the "defendant"), is without sufficient knowledge to either admit or deny the allegations contained in paragraph 1 and calls upon the plaintiffs for proof.

2. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 2 and calls upon the plaintiffs for proof.

3. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 3 and calls upon the plaintiffs for proof.

PARTIES

4. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

5. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

6. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

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7. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

8. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

9. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

10. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

11. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

12. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

13. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

14. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

15. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

16. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

17. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

18. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

19. The defendant is without sufficient knowledge to either admit or deny the allegations contained in this paragraph and calls upon the plaintiffs for proof.

20. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

21. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

22. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

23. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

24. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

25. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

26. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of

another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

27. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

28. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

29. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

30. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

31. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

32. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

33. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

34. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

35. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

36. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

37. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

38. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

39. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

40. The defendant admits that it is a corporation organized under the laws of the state of Alabama. The defendant denies the remaining allegations contained in this paragraph and calls upon the plaintiffs for proof.

41. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

42. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

43. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

44. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

45. The defendant does not make a response to the allegations contained within this paragraph because said allegations relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

ALLEGATIONS COMMON TO ALL COUNTS

46. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 46 and calls upon the plaintiffs for proof.

47. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 47 and calls upon the plaintiffs for proof.

48. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 48 and calls upon the plaintiffs for proof.

49. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 49 and calls upon the plaintiffs for proof.

50. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 50 and calls upon the plaintiffs for proof.

51. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 51 and calls upon the plaintiffs for proof.

52. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 52 and calls upon the plaintiffs for proof.

53. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 53 and calls upon the plaintiffs for proof.

54. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 54 and calls upon the plaintiffs for proof.

55. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 55 and calls upon the plaintiffs for proof.

56. The defendant is without knowledge to either admit or deny the allegations contained in paragraph 56 and calls upon the plaintiffs for proof.

57. The defendant is without knowledge to either admit or deny the allegations contained in paragraph 57 and calls upon the plaintiffs for proof.

58. The defendant is without knowledge to either admit or deny the allegations contained in paragraph 58 and calls upon the plaintiffs for proof.

59. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 59 and calls upon the plaintiffs for proof.

60. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 60 and calls upon the plaintiffs for proof.

61. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 61 and calls upon the plaintiffs for proof.

62. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 62 and calls upon the plaintiffs for proof.

63. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 63 and calls upon the plaintiffs for proof.

64. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 64 and calls upon the plaintiffs for proof.

65. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 65 and calls upon the plaintiffs for proof.

66. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 66 and calls upon the plaintiffs for proof.

67. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 67 and calls upon the plaintiffs for proof.

68. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 68 and calls upon the plaintiffs for proof.

69. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 69 and calls upon the plaintiffs for proof.

70. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 70 and calls upon the plaintiffs for proof.

71. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 71 and calls upon the plaintiffs for proof.

72. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 72 and calls upon the plaintiffs for proof.

73. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 73 and calls upon the plaintiffs for proof.

74. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 74 and calls upon the plaintiffs for proof. To the extent that the allegations of said paragraph are intended in any manner to state a claim of liability against the defendant, they are denied.

75. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 75 and calls upon the plaintiffs for proof.

76. The defendant is without sufficient knowledge to either admit or deny the allegations contained in paragraph 76 and calls upon the plaintiffs for proof.

COUNT ONE – COUNT FORTY-TWO

77-249. The defendant does not make a response to the allegations contained in Counts One through Counts Forty-Two of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

COUNT FORTY-THREE
By George Guindon
(Negligence)

250. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 249.

251. The defendant denies the allegations contained in this paragraph.

252. The defendant denies the allegations contained in this paragraph.

253. The defendant denies the allegations contained in this paragraph.

254. The defendant denies the allegations contained in this paragraph.

255. The defendant denies the allegations contained in this paragraph.

256. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-FOUR
By Barbara Guindon, Individually
for Loss of Consortium
(Negligence)

257. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 256.

258. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-FIVE
By Barbara Guindon, as Mother
and Next Friend to Erica Guindon
for Loss of Consortium
(Negligence)

259. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 258.

260. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-SIX
By George Guindon
(Strict Products Liability)

261. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 260.

262. The defendant denies the allegations contained in this paragraph.

263. The defendant denies the allegations contained in this paragraph.

264. The defendant denies the allegations contained in this paragraph.

265. The defendant denies the allegations contained in this paragraph.

266. The defendant denies the allegations contained in this paragraph.

267. The defendant denies the allegations contained in this paragraph.

268. The defendant denies the allegations contained in this paragraph.

269. The defendant denies the allegations contained in this paragraph.

270. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-SEVEN
By Barbara Guindon, Individually
for Loss of Consortium
(Strict Products Liability)

271. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 270.

272. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-EIGHT
By Barbara Guindon, as Mother
and Next Friend to Erica Guindon
for Loss of Consortium
(Strict Products Liability)

273. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 272.

274. The defendant denies the allegations contained in this paragraph.

COUNT FORTY-NINE - COUNT SEVENTY-FOUR

275-442. The defendant does not make a response to the allegations contained in Counts Forty-Nine through Count Seventy-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH

COUNT SEVENTY-FIVE
By Tammy Ayer, as Administrator
of the Estate of Tina Marie Ayer
(Negligence)

443. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 442.

444. The defendant denies the allegations contained in this paragraph.

445. The defendant denies the allegations contained in this paragraph.

446. The defendant denies the allegations contained in this paragraph.

447. The defendant denies the allegations contained in this paragraph.

448. The defendant denies the allegations contained in this paragraph.

COUNT SEVENTY-SIX
By Tammy Ayer, as Administrator
of the Estate of Tina Marie Ayer
(Strict Products Liability)

449. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 448.

450. The defendant denies the allegations contained in this paragraph.

451. The defendant denies the allegations contained in this paragraph.

452. The defendant denies the allegations contained in this paragraph.

453. The defendant denies the allegations contained in this paragraph.

454. The defendant denies the allegations contained in this paragraph.

COUNT SEVENTY-SEVEN - COUNT NINETY-FOUR

455-598. The defendant does not make a response to the allegations contained in Counts Seventy-Seven through Counts Ninety-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

COUNT NINETY-FIVE
By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Negligence)

599. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 598.

600. The defendant denies the allegations contained in this paragraph.

601. The defendant denies the allegations contained in this paragraph.

602. The defendant denies the allegations contained in this paragraph.

603. The defendant denies the allegations contained in this paragraph.

604. The defendant denies the allegations contained in this paragraph.

CLAIMS AGINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

COUNT NINETY-SIX
By Louis Rossi, as Co-Administrator of the Estate of Joseph Rossi (Strict Products Liability)

605. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 604.

606. The defendant denies the allegations contained in this paragraph.

607. The defendant denies the allegations contained in this paragraph.

608. The defendant denies the allegations contained in this paragraph.

609. The defendant denies the allegations contained in this paragraph.

610. The defendant denies the allegations contained in this paragraph.

COUNT NINETY-SEVEN - COUNT ONE HUNDRED FOURTEEN

611-747. The defendant does not make a response to the allegations contained in Counts Ninety-Seven through Counts One Hundred Fourteen of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH.

COUNT ONE HUNDRED FIFTEEN
By Christopher Scott
(Negligence)

748. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 747.

749. The defendant denies the allegations contained in this paragraph.

750. The defendant denies the allegations contained in this paragraph.

751. The defendant denies the allegations contained in this paragraph.

752. The defendant denies the allegations contained in this paragraph.

753. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED SIXTEEN
By Christopher Scott
(Strict Products Liability)

754. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 753.

755. The defendant denies the allegations contained in this paragraph.

756. The defendant denies the allegations contained in this paragraph.

757. The defendant denies the allegations contained in this paragraph.

758. The defendant denies the allegations contained in this paragraph.

759. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED SEVENTEEN –
COUNT ONE HUNDRED THIRTY-FIVE

760-896. The defendant does not make a response to the allegations contained in Counts One Hundred Seventeen through Counts One Hundred Thirty-Five of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH.

COUNT ONE HUNDRED THIRTY-FIVE
By Julianna Giaven
(Negligence)

897. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 896.

898. The defendant denies the allegations contained in this paragraph.

899. The defendant denies the allegations contained in this paragraph.

900. The defendant denies the allegations contained in this paragraph.

901. The defendant denies the allegations contained in this paragraph.

902. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED THIRTY-SIX
By Julianna Giaven
(Strict Products Liability)

903. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 902.

904. The defendant denies the allegations contained in this paragraph.

905. The defendant denies the allegations contained in this paragraph

906. The defendant denies the allegations contained in this paragraph

907. The defendant denies the allegations contained in this paragraph

908. The defendant denies the allegations contained in this paragraph

COUNT ONE HUNDRED THIRTY-SEVEN –
COUNT ONE HUNDRED FIFTY-FIVE

909-1071. The defendant does not make a response to the allegations contained in Counts One Hundred Thirty-Seven through Counts One Hundred Fifty-Five of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, INC.

COUNT ONE HUNDRED FIFTY-FIVE
By Eric Malardo
(Negligence)

1072. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1071.

1073. The defendant denies the allegations contained in this paragraph.

1074. The defendant denies the allegations contained in this paragraph.

1075. The defendant denies the allegations contained in this paragraph.

1076. The defendant denies the allegations contained in this paragraph.

1077. The defendant denies the allegations contained in this paragraph.

1078. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED FIFTY-SIX
By Eric Malardo
(Strict Product Liability)

1079. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1078.

1080. The defendant denies the allegations contained in this paragraph.

1081. The defendant denies the allegations contained in this paragraph.

1082. The defendant denies the allegations contained in this paragraph.

1083. The defendant denies the allegations contained in this paragraph.

1084. The defendant denies the allegations contained in this paragraph.

1085. The defendant denies the allegations contained in this paragraph.

1086. The defendant denies the allegations contained in this paragraph.

1087. The defendant denies the allegations contained in this paragraph.

1088. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED FIFTY-SEVEN –
COUNT ONE HUNDRED SEVENTY-FOUR

1089-1257. The defendant does not make a response to the allegations contained in Counts One Hundred Fifty-Seven through Counts One Hundred Seventy-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH

COUNT ONE HUNDRED SEVENTY-FIVE
By Michelle Malardo
(Negligence)

1258. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1257.

1259. The defendant denies the allegations contained in this paragraph.

1260. The defendant denies the allegations contained in this paragraph.

1261. The defendant denies the allegations contained in this paragraph.

1262. The defendant denies the allegations contained in this paragraph.

1263. The defendant denies the allegations contained in this paragraph.

1264. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED SEVENTY-SIX
By Michelle Malardo
(Strict Products Liability)

1265. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1264.

1266. The defendant denies the allegations contained in this paragraph.

1267. The defendant denies the allegations contained in this paragraph.

1268. The defendant denies the allegations contained in this paragraph.

1269. The defendant denies the allegations contained in this paragraph.

1270. The defendant denies the allegations contained in this paragraph.

1271. The defendant denies the allegations contained in this paragraph.

1272. The defendant denies the allegations contained in this paragraph.

1273. The defendant denies the allegations contained in this paragraph.

1274. The defendant denies the allegations contained in this paragraph.

COUNT ONE HUNDRED SEVENTY-SEVEN –
COUNT TWO HUNDRED EIGHT

1275-1470. The defendant does not make a response to the allegations contained in Counts One Hundred Seventy-Seven through Counts Two Hundred Eight of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH.

COUNT TWO HUNDRED NINE
By Richard Sanetti
(Negligence)

1471. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1470.

1472. The defendant denies the allegations contained in this paragraph.

1473. The defendant denies the allegations contained in this paragraph.

1474. The defendant denies the allegations contained in this paragraph.

1475. The defendant denies the allegations contained in this paragraph.

1476. The defendant denies the allegations contained in this paragraph.

1477. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED TEN
By Patricia Sanetti
Loss of Consortium
(Negligence)

1478. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1477.

1479. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED ELEVEN
By Richard Sanetti
(Strict Liability)

1480. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1479.

1481. The defendant denies the allegations contained in this paragraph.

1482. The defendant denies the allegations contained in this paragraph.

1483. The defendant denies the allegations contained in this paragraph.

1484. The defendant denies the allegations contained in this paragraph.

1485. The defendant denies the allegations contained in this paragraph.

1486. The defendant denies the allegations contained in this paragraph.

1487. The defendant denies the allegations contained in this paragraph.

1488. The defendant denies the allegations contained in this paragraph.

1489. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED TWELVE
By Patricia Sanetti
Loss of Consortium
(Strict Liability)

1490. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1489.

1491. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED THIRTEEN –
COUNT TWO HUNDRED FORTY-EIGHT

1492-1693. The defendant does not make a response to the allegations contained in Counts Two Hundred Thirteen through Counts Two Hundred Forty-Eight of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH.

COUNT TWO HUNDRED FORTY-NINE
By Michelle Spence
(Negligence)

1695(sic). The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1693.

1696. The defendant denies the allegations contained in this paragraph.

1697. The defendant denies the allegations contained in this paragraph.

1698. The defendant denies the allegations contained in this paragraph.

1699. The defendant denies the allegations contained in this paragraph.

1700. The defendant denies the allegations contained in this paragraph.

1701. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED FIFTY
By Michelle Spence, as Mother
and Next Friend to Hailey Spence
Loss of Consortium

1702. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1701.

1703. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED FIFTY-ONE
By Michelle Spence
(Strict Products Liability)

1704. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1703.

1705. The defendant denies the allegations contained in this paragraph.

1706. The defendant denies the allegations contained in this paragraph.

1707. The defendant denies the allegations contained in this paragraph.

1708. The defendant denies the allegations contained in this paragraph.

1709. The defendant denies the allegations contained in this paragraph.

1710. The defendant denies the allegations contained in this paragraph.

1711. The defendant denies the allegations contained in this paragraph.

1712. The defendant denies the allegations contained in this paragraph.

1713. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED FIFTY-TWO
By Michelle Spence, as Mother
and Next Friend to Hailey Spence
Loss of Parental Consortium
(Strict Products Liability)

1714. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1713.

1715. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED FIFTY-THREE –
COUNT TWO HUNDRED SEVENTY-FOUR

1716-1904. The defendant does not make a response to the allegations contained in Counts Two Hundred Fifty-Three through Counts Two Hundred Seventy-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH.

COUNT TWO HUNDRED SEVENTY-FIVE
By Catherine Carignan
(Negligence)

1905. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1904.

1906. The defendant denies the allegations contained in this paragraph.

1907. The defendant denies the allegations contained in this paragraph.

1908. The defendant denies the allegations contained in this paragraph.

1909. The defendant denies the allegations contained in this paragraph.

1910. The defendant denies the allegations contained in this paragraph.

1911. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED SEVENTY-SIX
By Catherine Carignan
(Strict Products Liability)

1912. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 1911.

1913. The defendant denies the allegations contained in this paragraph.

1914. The defendant denies the allegations contained in this paragraph.

1915. The defendant denies the allegations contained in this paragraph.

1916. The defendant denies the allegations contained in this paragraph.

1917. The defendant denies the allegations contained in this paragraph.

1918. The defendant denies the allegations contained in this paragraph.

1919. The defendant denies the allegations contained in this paragraph.

1920. The defendant denies the allegations contained in this paragraph.

1921. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED SEVENTY-SEVEN –
COUNT TWO HUNDRED NINETY-FOUR

1922-2069. The defendant does not make a response to the allegations contained in Counts Two Hundred Seventy-Seven through Counts Two Hundred Ninety-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

**CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH**

COUNT TWO HUNDRED NINETY-FIVE
**By Edward Corbett, Jr., as Administrator
of the Estate of Edward Corbett, III
(Negligence)**

2069. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2068.

2070. The defendant denies the allegations contained in this paragraph

2071. The defendant denies the allegations contained in this paragraph

2072. The defendant denies the allegations contained in this paragraph

2073. The defendant denies the allegations contained in this paragraph

2074. The defendant denies the allegations contained in this paragraph.

COUNT TWO HUNDRED NINETY-SIX
**By Edward Corbett, Jr., as Administrator
of the Estate of Edward Corbett, III
(Strict Products Liability)**

2075. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2074.

2076. The defendant denies the allegations contained in this paragraph

2077. The defendant denies the allegations contained in this paragraph

2078. The defendant denies the allegations contained in this paragraph

2079. The defendant denies the allegations contained in this paragraph

2080. The defendant denies the allegations contained in this paragraph.

**COUNT TWO HUNDRED NINETY-SEVEN –
COUNT THREE HUNDRED TWENTY-EIGHT**

2081-2251. The defendant does not make a response to the allegations contained in Counts Two Hundred Ninety-Seven through Counts Three Hundred Twenty-Eight of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC.
AND LUNA TECH PYROTECHNIC, GMBH

COUNT THREE HUNDRED TWENTY-NINE
By Paul and Betty Roe, as Co-Administrators
to the Estate of Lori K. Durante
(Negligence)

2252. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2251.

2253. The defendant denies the allegations contained in this paragraph.

2254. The defendant denies the allegations contained in this paragraph.

2255. The defendant denies the allegations contained in this paragraph.

2256. The defendant denies the allegations contained in this paragraph.

2257. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED THIRTY
By Paul and Betty Roe, Individually
for Loss of Consortium
(Negligence)

2258. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2257.

2259. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED THIRTY-ONE
By Paul and Betty Roe, as Co-Administrators
to the Estate of Lori K. Durante
(Strict Products Liability)

2260. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2259.

2261. The defendant denies the allegations contained in this paragraph.

2262. The defendant denies the allegations contained in this paragraph.

2263. The defendant denies the allegations contained in this paragraph.

2264. The defendant denies the allegations contained in this paragraph.

2265. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED THIRTY-TWO
By Paul and Betty Roe, Individually
for Loss of Consortium
(Strict Products Liability)

2266. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2265.

2267. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED THIRTY-THREE –
COUNT THREE HUNDRED FIFTY-FOUR

2268-2412. The defendant does not make a response to the allegations contained in Counts Three Hundred Thirty-Three through Counts Three Hundred Fifty-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH, INC. AND LUNA TECH PYROTECHNIC, GMBH

COUNT THREE HUNDRED FIFTY-FIVE
By Daniel Davidson
(Negligence)

2413. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2412.

2414. The defendant denies the allegations contained in this paragraph

2415. The defendant denies the allegations contained in this paragraph

2416. The defendant denies the allegations contained in this paragraph

2417. The defendant denies the allegations contained in this paragraph

2418. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED FIFTY-SIX
By Daniel Davidson
(Strict Products Liability)

2419. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2418.

2420. The defendant denies the allegations contained in this paragraph

2421. The defendant denies the allegations contained in this paragraph

2422. The defendant denies the allegations contained in this paragraph

2423. The defendant denies the allegations contained in this paragraph

2424. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED FIFTY-SEVEN – COUNT THREE HUNDRED SEVENTY-FOUR

2425-2559. The defendant does not make a response to the allegations contained in Counts Three Hundred Fifty-Seven through Counts Three Hundred Seventy-Four of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

CLAIMS AGAINST LUNA TECH INC.
AND LUNA TECH PYROTECHNIC, GMBH

COUNT THREE HUNDRED SEVENTY-FIVE
By Stephen Bruno
(Negligence)

2560. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2559.

2561. The defendant denies the allegations contained in this paragraph.

2562. The defendant denies the allegations contained in this paragraph.

2563. The defendant denies the allegations contained in this paragraph.

2564. The defendant denies the allegations contained in this paragraph.

2565. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED SEVENTY-SIX
By Stephen Bruno
(Strict Products Liability)

2566. The defendant, Luna Tech, Inc., repeats and reaffirms its responses as set forth in paragraphs 1 through 2565.

2567. The defendant denies the allegations contained in this paragraph.

2568. The defendant denies the allegations contained in this paragraph.

2569. The defendant denies the allegations contained in this paragraph.

2570. The defendant denies the allegations contained in this paragraph.

2571. The defendant denies the allegations contained in this paragraph.

COUNT THREE HUNDRED SEVENTY-SEVEN - COUNT THREE HUNDRED EIGHTY

2572–2619. The defendant does not make a response to the allegations contained in Counts Three Hundred Seventy-Seven through Counts Three Hundred Eighty of the Complaint because the allegations contained within said Counts relate to the conduct of another, for whose conduct the defendant is not legally responsible. To the extent that the allegations of said Counts are intended in any manner to state a claim of liability against the defendant, they are denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for lack of subject matter jurisdiction pursuant to Fed. R. Civ. P. 12(b)(1).

SECOND AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for lack of personal jurisdiction pursuant to Fed. R. Civ. P. 12(b)(2).

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for improper venue pursuant to Fed. R. Civ. P. 12(b)(3).

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for insufficiency of process pursuant to Fed. R. Civ. P. 12(b)(4).

FIFTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for insufficiency of service of process pursuant to Fed. R. Civ. P. 12(b)(5).

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed for failure to state a claim upon which relief may be granted pursuant to Fed. R. Civ. P. 12(b)(6).

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed pursuant to Fed. R. Civ. P. 12(b)(7) for failure to join a party under Rule 19.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiffs' Complaint should be dismissed pursuant to the Doctrine of Federal Preemption as the plaintiffs' common law tort actions are preempted by federal regulations. United States Constitution, Article 6, Clause 2; Geier v. American Honda Motor Co., Inc., 120 S.Ct. 1913 (2000).

NINTH AFFIRMATIVE DEFENSE

This action is barred by operation of the applicable statute of limitations.

TENTH AFFIRMATIVE DEFENSE

The plaintiffs' claims against the defendant are barred by laches, waiver, estoppel and/or the applicable statute of limitations.

ELEVENTH AFFIRMATIVE DEFENSE

The acts or omissions which are alleged to have caused the damages and/or injuries referred to in the Complaint were committed by a third-party who was not an agent or employee of the defendant and for whose acts or omissions the defendant is not legally responsible.

TWELFTH AFFIRMATIVE DEFENSE

The defendant alleges that the injuries and damages alleged by plaintiffs, if any, were proximately caused by the illegal, intentional and/or negligent conduct of other parties, and this defendant requests an allocation of such intentional or negligent conduct of other intervening parties and that such intervening acts could not have been anticipated by the defendant. The Travelers Insurance Co. v. Priority Business Forms, Inc., 11 F.Supp. 2d 194 (D.R.I. 1998). Accordingly, the plaintiffs' Complaint should be dismissed.

THIRTEENTH AFFIRMATIVE DEFENSE

The defendant states that the plaintiffs' alleged injuries were not proximately caused by the defendant or by anyone for whose conduct the defendant is legally responsible.

FOURTEENTH AFFIRMATIVE DEFENSE

The plaintiffs lack standing to assert the alleged claims and, therefore, the Complaint should be dismissed.

FIFTEENTH AFFIRMATIVE DEFENSE

The plaintiffs have failed to provide timely notice of any breach of warranty, thus the plaintiffs are barred from recovery.

SIXTEENTH AFFIRMATIVE DEFENSE

The defendant states that it provided no warranties expressed or implied.

SEVENTEENTH AFFIRMATIVE DEFENSE

If any agent or servant of the defendants made any express warranty then such warranty was made without authority, express or implied.

EIGHTEENTH AFFIRMATIVE DEFENSE

The product involved in this action was changed in substance and form after it left the control of the defendant by a third party or by one whose conduct the defendant is not responsible, and such changes were the actual cause of the plaintiffs' injuries.

NINETEENTH AFFIRMATIVE DEFENSE

The plaintiffs' claims should be dismissed because at the time of the alleged incident, the product was being misused by a third party for whom the defendant is not responsible.

TWENTIETH AFFIRMATIVE DEFENSE

To the extent that the defendant had any obligations to the plaintiffs, and the defendant denies same, any such obligations have been fully, completely and properly performed in every respect, thus the plaintiffs are barred from recovery.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The defendant cannot be held liable under an express or implied warranty of merchantability for failure to warn or provide instructions about risks that were not reasonably foreseeable at the time of sale or could not have been discovered by way of reasonable testing prior to marketing the product; and, therefore, the plaintiff's Complaint should be dismissed.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the principles embodied in Section 402A of the Restatement (Second) of Torts, comment (i).

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claim for punitive damages cannot be sustained without bifurcating the trial of punitive damages issues in light of the defendant's due process rights guaranteed by the Fourteenth Amendment to the United States Constitution.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Should any liability be found on the part of this defendant, this defendant requests that the judgment against it be only in the amount which is in proportion to the extent and percent by which the defendant's acts or omissions contributed to the plaintiffs' injuries or damages. Rhode Island General Laws § 9-20-4; Fiske v. MacGregor, Div. of Brunswick, et al., 464 A.2d 719 (R.I. 1983).

TWENTY-FIFTH AFFIRMATIVE DEFENSE

In the event that the defendants in this action are determined to be joint tortfeasors, the defendant asserts that it is entitled to an allocation of relative degree of fault among all joint-tortfeasors so that the pro-rata share of each defendant can be determined in accordance with the Rhode Island Uniform Contribution Among Tortfeasors Act, R.I.G.L. § 10-6-1, et seq.

JURY DEMAND

The defendant demands a jury trial on all issues triable at law

Respectfully submitted,
LUNA TECH, INC.

Curtis R. Diedrich (#4171)
Edward T. Hinchey (Admitted Pro Hac Vice)
SLOANE AND WALSH, LLP
127 Dorrance Street
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(401) 454-7700

Dated: 9/1/04

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was mailed on 9/1/04, postage prepaid, to the following attorneys of record as of said date:

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